

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting an Investigation)
Into the Availability of)
Experienced Providers of)
Quality Telecommunications)
Relay Services, Pursuant to)
Section 16.6, Hawaii Revised)
Statutes.)
_____)

DOCKET NO. 03-0058

ORDER NO. 22438

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Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

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OF THE STATE OF HAWAII

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_____)	

ORDER

By this Order, the commission extends for an additional two years the statewide Telecommunications Relay Service ("TRS") currently being provided by Sprint Communications Company, L.P. ("Sprint") pursuant to Decision and Order No. 20163, filed on April 30, 2003, in this docket ("Decision and Order No. 20163").¹

I.

Background

TRS provides telephone accessibility to people who are deaf, hearing-impaired and/or speech disabled through the use of specially trained communications assistants that serve as intermediaries relaying conversation between hearing persons and persons using a text telephone device. Pursuant to Hawai'i Revised Statutes ("HRS") § 269-16.6, the commission is required

¹Decision and Order No. 20163, and commission documents incorporated therein that govern Sprint's state-wide provision of TRS, will collectively be referred to as the "TRS Contract."

to investigate the availability of experienced TRS providers, and select the best qualified provider to provide such services to the State of Hawai'i ("State"). Thus, by Order No. 20067, filed on March 7, 2003, the commission instituted this proceeding to investigate the availability of quality TRS providers.²

The commission requested comments from numerous TRS providers on a draft request for services ("RFS"), and thereafter, the commission adopted and incorporated into the record its final RFS by Order No. 20111, filed on April 4, 2003. Regarding the term of the provision of services under the RFS, the RFS states: "The purpose of this RFS is to select a TRS provider for a period of three years beginning July 1, 2003, with the provision for the Commission having the discretion to continue the service for 2 additional years beyond the initial three-year period."³ (Emphasis added).

In response to the RFS, Sprint filed its "Proposal to Provide Telecommunication[s] Relay Service in the State of Hawai'i" on April 23, 2003 ("Sprint's Proposal"). An evaluation committee reviewed the TRS proposals received by the commission. Upon recommendation by the evaluation committee, and by Decision and Order No. 20163, the commission selected Sprint as the exclusive provider of TRS in the State. As noted above, the duration of the TRS Contract was for the period from July 1, 2003 to June 30, 2006, with the option for the commission to extend

²On February 24, 2003, the State's prior provider of TRS, Verizon Hawaii Inc., gave notice of its intent to terminate its provision of TRS in July 2003.

³See RFS, attached as Exhibit "A" to Order No. 20111, filed on April 4, 2003, at 6.

the initial period by two years in its discretion. Decision and Order No. 20163 also ordered that the content of Sprint's Proposal and the terms of the RFS be binding on Sprint.⁴

In the event that the commission decides to extend the initial term of the TRS Contract, the RFS and Sprint's Proposal provide that the price for TRS cannot be raised by more than five percent each year, unless Sprint and the commission agree that a five percent cap is "unrealistic or unfair." Specifically, Section 5.3 in the RFS and Sprint's Proposal states:

The price contained in the service provider's proposal shall be binding for the initial three years of the contract period. For the following years, with the provision for the Commission to continue service for an additional 2 years, the price can not be increased by more than five percent (5%) each year unless the contractor and the State mutually agree that a 5% cap is unrealistic or unfair.

RFS, attached as Exhibit "A" to Order No. 20111, filed on April 4, 2003, at 20 (Section 5.3); Sprint's Proposal, filed on April 23, 2003, Section 5.3.

On June 26, 2003, Sprint filed Hawaii PUC Tariff No. 2 ("Sprint's Tariff"), which sets forth the service offerings and the terms and conditions applicable to Sprint's furnishing of statewide TRS. By Order No. 20304, filed on July 8, 2003, the commission approved Sprint's Tariff and allowed it to take effect on July 1, 2003.⁵

⁴See Decision and Order No. 20163, at 8.

⁵Subsequently, by Order No. 20710, filed on December 11, 2003, the commission approved certain modifications to Sprint's Tariff in connection with Sprint's provision of Video Relay Service. On June 10, 2004, by Order No. 21048, the commission

With the initial term of the TRS Contract about to expire on June 30, 2006, the commission hereby exercises its option to extend Sprint's provision of TRS for an additional two years, subject to the conditions discussed below.

II.

Discussion

By letters dated December 2 and 8, 2005, Sprint informed the commission that it was interested in continuing its services under the TRS Contract for an additional two years, but advised the commission that a price increase under the TRS Contract was necessary.⁶ As described by Sprint, its current TRS services include: (i) An in-state call center to more effectively and accurately convey the unique names of people and places in Hawaii during a relay call; (ii) An Account Manager; (iii) An annual outreach budget of \$100,000; (iv) A TRS equipment

approved Sprint's proposal to expand its TTY (text telephone) equipment rental program and offer Two-Line CapTel services.

⁶By letter dated April 10, 2006, the commission provided the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate") with copies of Sprint's December 2 and 8, 2005 letters to the commission. See Letter dated April 10, 2006 from the commission to the Consumer Advocate, filed in Docket No. 03-0058. In the commission's April 10, 2006 letter, the commission informed the Consumer Advocate of its inclinations to extend the TRS Contract and approve a price increase under the TRS Contract, and allowed the Consumer Advocate an opportunity to comment on the commission's proposed actions. The Consumer Advocate did not respond with any comments or objections to the commission's April 10, 2006 letter.

distribution program; and (v) Fund management through Solix, Inc., fka NECA Services, Inc.⁷

Sprint represents that, while it proposes to maintain its current level of services, nationwide call trends in traditional TRS have been dropping, with relay users migrating to newer and more functionally equivalent TRS such as internet, Video Relay Service, and CapTel Enhanced Voice Carry Over services. Sprint claims that Hawaii TRS is consistent with this trend in that Hawaii TRS has experienced a 44% drop in intrastate TRS traffic from July 2003 to May 2005 (a decrease from 45,000 minutes per month to 25,000 minutes per month). Ultimately, Sprint maintains:

The end result is that Sprint's costs of operations have actually increased over the term of this contract while the total revenue received through this contract has significantly decreased Sprint's proposed increase in price is necessary in order to continue to provide the current level of services given the decreasing call volumes.

Letter dated December 8, 2005 from Sprint to the commission, attached to Letter dated April 10, 2006 from the commission to the Consumer Advocate, filed in Docket No. 03-0058.

Sprint has proposed two payment schedules represented as "Option 1" and "Option 2" in its correspondence to the commission supporting a proposed price increase for an extended two-year term of the TRS Contract.⁸ Option 1 offers the current

⁷See Letter dated December 8, 2005, from Sprint to the commission attached to Letter dated April 10, 2006, from the commission to the Consumer Advocate, filed in Docket No. 03-0058.

⁸See Letter dated December 2, 2005 from Sprint to the commission attached to Letter dated April 10, 2006 from the commission to the Consumer Advocate, filed in Docket No. 03-0058.

charge of \$1.90 per minute for each TRS session minute, with an additional fixed monthly charge of \$34,000. Option 2 offers a higher fixed price for each TRS session minute of \$4.30 per minute, with no fixed monthly charge.⁹

Based upon the commission's review of the entire record in this docket, and the information provided by Sprint regarding the past (and projected) decline in use of traditional TRS, its cost of operations, and price proposals, the commission finds that the TRS Contract should be extended for an additional two years, and that a five percent cap on the price of TRS under an extended term would be unrealistic and unfair to Sprint. The commission accordingly approves the proposed price increase offered as Option 1 by Sprint for the extended two-year term of the TRS Contract. Sprint shall continue to be bound by all terms and conditions applicable to Sprint's furnishing of statewide TRS under Sprint's Tariff for the extended term of the TRS Contract.

III.

Orders

THE COMMISSION ORDERS:

1. Sprint's provision of TRS under the TRS Contract is hereby extended for an additional two-year term, commencing on July 1, 2006 and ending on June 30, 2008.

⁹Sprint also provides CapTel Relay Service ("CapTel") under the TRS Contract, which is a form of TRS that utilizes specialized equipment and voice-to-text technology to provide relay services. Under both Option 1 and Option 2 proposed by Sprint, discussed above, the price for CapTel remains the same at \$1.90 per session minute.

2. The commission approves the price increase that has been proposed by Sprint as "Option 1." Accordingly, for the extended two-year term of the TRS Contract, the price for TRS (and CapTel) session minutes will be \$1.90, with a monthly recurring charge of \$34,000.

3. Sprint's Tariff, approved by the commission in Order No. 20304, filed on July 8, 2003, shall remain in full force and effect, and Sprint shall continue to be bound by the terms and conditions set forth therein.

4. Decision and Order No. 20163, filed on April 30, 2003, in this docket, is amended consistent with the terms and conditions of this Order. In all other respects, Decision and Order No. 20163 remains unchanged.

DONE at Honolulu, Hawaii MAY - 1 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By *Carlito P. Caliboso*
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

By *Janet E. Kawelo*
Janet E. Kawelo, Commissioner

Kaiulani E.S. Kidani
Kaiulani E.S. Kidani
Commission Counsel

03-0058.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 22438 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: MAY - 1 2006